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TO: SUPERVISOR DON KNABE, Chairman  
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FROM: LLOYD W. PELLMAN  
County Counsel

RE: **Report on State Ballot Initiative on 9-1-1 Emergency and Trauma Care**

Item 38 on the agenda of January 13, 2004, was a recommendation by the Los Angeles County Emergency Medical Services Commission that your Board support the State ballot initiative sponsored by the Coalition to Preserve Emergency Care which would increase the surcharge on telephone calls made within California to fund 9-1-1 emergency dispatch, emergency rooms, trauma centers and emergency doctors (Initiative). Your Board continued this item for one week and requested that my office provide a report on the Initiative.

Specifically, based on our conversations with the Chief Administrative Office, it is our understanding that your Board has inquired as to whether the allocation of funds under the Initiative may supplant existing state funding for emergency services, and whether the State can divert funds from the Initiative for reimbursement for administrative costs.

**Supplantation of Existing Funding**

Under the terms of the Initiative, a surcharge of 3% on top of current charges (up to an additional limit of \$.50 per month for residential users) would be imposed on intrastate telephone calls. The express terms of the Initiative provide that these funds shall be used to supplement existing levels of Federal, state and local funding and not supplant existing levels of funding. Thus, it is clearly the intent of the Initiative that its funding should not replace existing funding.

As background, there have traditionally been three statutory statewide sources of emergency services funding: (1) general fund allocation

under the State Trauma Care Services Fund; (2) the Maddy Emergency Services Fund (Maddy); and, (3) the California Healthcare for Indigents Program (CHIP). Currently, there are no state general funds allocated for this fiscal year, nor are there any proposed in the Governor's budget for the next fiscal year. As such, there is no issue regarding the State attempting to ignore the Initiative's intent and supplanting general fund contribution. Funding under Maddy is earmarked for emergency or trauma services and does not allow the state discretion to divert that money to other purposes. Thus, the State could not use Initiative funding to supplant that funding stream. Finally, CHIP does provide the State with discretion as to funding allocations, which is evidenced by the significant reduction in funding over the past many years. Therefore, the State could conceivably attempt to supplant CHIP funding with funds from the Initiative. However, as we stated, the Initiative clearly prohibits such supplantation and therefore an effort at supplantation could be challenged.

#### **Reimbursement for Administrative Costs**

Pursuant to the Initiative, 4.5% of the funding would be appropriated to two state agencies for technological and service improvements in the emergency phone number system and for training and equipment for firefighters and pre-hospital emergency medical workers. Of the remaining funds, 5% would be allocated to eligible community clinics for care to uninsured patients, 30.5% would be allocated to emergency and trauma physicians for uncompensated care, and 60% would be allocated to emergency and trauma hospital services for uncompensated care.

#### **Community Clinics**

The Office of Statewide Health Planning and Development is charged with administering the distribution of funds to community clinics. Any actual administrative costs incurred are reimbursed from the monies allocated for community clinics, but not to exceed 1% of the allocated amount per fiscal year.

#### **Emergency and Trauma Physicians and Hospitals**

The Initiative establishes a state Emergency and Trauma Physician Services Commission under the California Department of Health Services (Department) for administration of the statewide reimbursement process for emergency and trauma physicians and hospitals. The members of this Commission are appointed by the Governor and State Legislature. Any actual costs of administration incurred by the Department for physician disbursements would be recovered from the funds allocated for physicians, but not to exceed 4% of the allocated amount per fiscal year, unless the Commission approves a different percentage as necessary for efficient administration. It should also be noted that the Initiative revises existing administration of funding under Maddy

and CHIP such that reimbursement to physicians under these statutes would no longer be administered by the County, but would instead fall within the authority of the Department. While not entirely clear, our reading of the Initiative indicates that the reimbursement to the State for administering the physician disbursement under Maddy and CHIP would be limited to the same 4% cap. Finally, any actual costs incurred for administration of hospital disbursements would be recovered, but not to exceed 1% of the allocated amount for the fiscal year.

In lieu of state administration, a county may apply for delegated authority to administer the physician reimbursement process for the Initiative, Maddy and CHIP. The Department, with the approval of the Commission, would be free to establish terms and conditions upon delegating this responsibility to a County. The delegation would continue for up to a three year period, with re-application required thereafter. In so doing, the County would be responsible for receiving the funds from the Department and disbursing the funds to eligible physicians for certain unpaid claims and for services rendered to the uninsured. Similar to the State, a County would be reimbursed for the costs of such administration, but not to exceed 4% of the allocated funds, unless a different percentage is approved by the Commission. It should be noted that disbursements to eligible hospitals under the Initiative would remain with the Department.

If you have any questions, please contact Deputy County Counsel Edward A. Morrissey of my office at 974-1554 should you have any questions.

LWP:EAM:jm

Enclosure

c: David E. Janssen  
Chief Administrative Officer

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